

1 distinguish between regret following gender
2 confirmation surgery as opposed to regret following
3 social transition or nonsurgical intervention?

4 A I think a large number of these 100 people have had
5 surgery, but it may -- you have to refresh me. I
6 think you're going to do that now.

7 Q I'm going to -- I'm going to scroll down to page
8 3361 of the report on table 4 where Dr. Littman
9 describes the 100 respondents. Do you see that?

10 A Yes.

11 Q And you agree from this table that of the 100
12 persons who responded to her survey, only 6 had
13 undergone genital surgery?

14 A To create -- yeah, okay.

15 Q So do you believe this article still stands for the
16 proposition that at least 75 percent of
17 detransitioned patients do not return to the
18 surgeon?

19 A Well, I don't recall whether it's -- let's see.
20 There were -- there were -- there were 29 people
21 who had surgery. Wait a second. There's face and
22 neck surgery, 5. I haven't read this article for a
23 long time, and so you have to give me some time
24 here.

25 Q We can just move on. The article speaks for

1 itself, so I don't want to waste your time going
2 through it.

3 A What does it say? When you say it speaks for it
4 yourself, what are you saying it says? I'm not
5 allowed to ask you questions. Sorry.

6 Q I was just about to tell you that, although if
7 anything close to that 75 percent figure is in this
8 article, I have not noticed it. Okay. In
9 paragraph 45 of your report you say, "In a 2011
10 study of all patients who had surgery, both trans
11 men and trans women, the suicide rate was 19.1
12 times the rate among control Swedish population."

13 Do you see that?

14 A Yes.

15 Q I'm so sorry. Do you know how to pronounce the
16 author's last name?

17 A Why don't we just call her Cecilia because everyone
18 can agree on how to pronounce her first name.

19 Q That's perfectly fine. And her last name is
20 D-h-e-j-n-e?

21 A Dhejne.

22 Q I'm perfectly fine calling her Cecilia. I just
23 want to make sure the record reflects that that's
24 what we're talking about. I had to close a couple
25 of these just because the thing I need to click on

1 is right under the stop share button. Okay. I
2 have pulled up in front of you Exhibit 37, which I
3 think is the Cecilia study you cited; is that
4 correct?

5 A Correct.

6 Q It's my understanding from reading this article
7 that the article is comparing persons who underwent
8 confirmation surgery in Sweden in the 1970s and
9 1980s to the general population, is that correct?

10 A It's over a 30-year period, Mr. Rose. It's not
11 just the 20-year period.

12 Q And, again, the article speaks for itself. I
13 understand they might have accumulated data after
14 the '80s, but I think the article does say that the
15 persons they were studying actually received
16 surgery in the '70s or '80s even though they
17 continued to follow these people for decades after
18 that. Regardless of the date, this article was
19 comparing persons who underwent confirmation
20 surgery in Sweden to the general population,
21 correct?

22 A Yes, to the general population of born in the same
23 month, in the same year, and they had two control
24 groups, I think one biological males and one
25 biologic females.

1 Q So it was attempting to -- so the 19.1 times figure
2 that you mentioned, is that persons after
3 confirmation surgery commit suicide at greater
4 rates than non-transgender persons in the general
5 population, is that correct?

6 A That's right. After they were cured of gender
7 dysphoria, according to the modern thinking in 1970
8 and the 1980s because you need to understand that
9 that's what people thought the surgery did, cure
10 gender dysphoria.

11 Q And on page 7 of the report, the author actually
12 indicates that, "The results should not be
13 interpreted as such that sex reassignment, per se,
14 increases morbidity and mortality. Things might
15 have been even worse without sex reassignment. As
16 an analogy, similar studies have found increased
17 somatic morbidity, suicide rate, and overall
18 mortality for patients treated with bipolar
19 disorder and schizophrenia."

20 Did I read that correctly?

21 A Yes. May I comment on that?

22 Q No. My question is whether you agree that the
23 study should not be interpreted to indicate that
24 confirmation surgery as such increases morbidity
25 and mortality.

1 A Do I agree? No, I don't agree.

2 Q So you have a different interpretation of the study
3 than the study's authors?

4 A I do.

5 Q Okay. But is it fair to say that the study was
6 comparing persons with a mental health diagnosis to
7 persons without a mental health diagnosis?

8 A That wouldn't be fair to say.

9 Q So you don't think that would be fair? I'm sorry.
10 Did you answer the question?

11 A Yes. I answered the question, no, I don't think
12 it's fair.

13 (A discussion was held off the record, and a
14 brief recess was taken.)

15 Q Back on the record. In the next paragraph after
16 the portion that I read you from this psychological
17 study, the Cecilia study, the authors write, quote,
18 unquote, "This study reflects the outcome of
19 psychiatric and somatic treatment for
20 transsexualism provided in Sweden during the 1970s
21 and 1980s. Since then treatment has evolved with
22 improved sex reassignment surgery, refined hormonal
23 treatment, and more attention to psychosocial care
24 that might have improved the outcome."

25 Do you see that?

1 A Yes.

2 Q I assume you agree that treatment techniques for
3 gender dysphoria have improved since the '70s and
4 '80s?

5 A I think they're talking about the surgical
6 techniques. I hope that that's true. I believe
7 it's true. I think that's how surgery advances.
8 So when it comes to -- I would just want to answer
9 your question in terms of surgery, per se. Refined
10 hormonal treatment, yes, I think in the early '70s
11 an estrogen was used that led to a large number of
12 blood clots, and so that estrogen is not used
13 anymore, generally, so I think death or
14 hospitalization from blood clots has improved.
15 People died from blood clots, and I don't know what
16 psychosocial care might that she might be -- that
17 this group might be referring to. I kind of think
18 that in the 1970s and '80s if someone had a
19 gender -- I should -- tell me if you don't want to
20 hear this. Published in this study is the number
21 of people who were screened by the national
22 organization that does screening in Sweden, and a
23 large number of people were rejected for sex
24 reassignment surgery. And I think one of the basis
25 for that rejection was they were thought to be too

1 mentally ill, and what is so shocking to people
2 like myself is that the same data, long-term data,
3 was available on those people who didn't have sex
4 reassignment surgery with comparing it to those who
5 did have sex reassignment surgery. And sort of
6 every methodologist who has looked at this study
7 have had a sense of sadness that they did not study
8 the people who didn't have sex reassignment surgery
9 as a control group, as an additional control group,
10 so I don't know really what Cecilia and her
11 colleagues mean by improved psychosocial care. We
12 were aware in the '70s and in the '80s that many of
13 these people had concomitant major mental illness,
14 and so -- so I don't know what she's referring to.
15 She may in fact be right that there was improved
16 care, and therefore the outcomes may be better.

17 Q Do you agree that there are other factors in
18 addition to or possibly in addition to care such as
19 greater acceptance in the community which might
20 have also led to improvements in suicide rates
21 among transgender persons since the '70s and '80s?

22 A I hope that is true, yes.

23 Q You note in your report, I assume, you're aware
24 more recent suicide rates are lower than
25 19.1 percent?

1 A They're far lower, and they're still very elevated.

2 Q And the number that you provide in paragraph 45 of
3 your report is that the suicide rate amongst
4 transgender persons ranges from 3.5 to 6 times
5 higher than the general population, is that
6 correct?

7 A Yes, I wrote that.

8 Q And these figures are among all transgender
9 persons, correct, whether or not they had
10 confirmation surgery?

11 A I think that's probably largely true. They're a
12 mixed bag of those who have and haven't.

13 Q And you agree that figure would include transgender
14 persons who have been denied surgery or other forms
15 of treatment, correct?

16 A Or have chosen not to have surgery.

17 Q Sure.

18 A It very much depends on the country, Mr. Rose. In
19 America, if therapists or committee X denies, they
20 go to somebody else and get it. That's not true in
21 Sweden.

22 Q And you agree that the authors of the Cecilia study
23 actually felt that confirmation surgery improved
24 patients' genital dysphonia, correct?

25 A Well, I don't think they were using the term

1 "genital dysphonia." They were talking about
2 gender dysphoria.

3 Q But you agree that they felt that confirmation
4 surgery improved their gender dysphoria?

5 A What I'm agreeing to is that they undertook the
6 surgery because they believe this would improve
7 their gender dysphoria. In those days, people
8 advertised sex reassignment surgery as a cure for
9 gender dysphoria. We don't do that anymore. Even
10 surgeons don't do that anymore.

11 Q And my question, Doctor, was you agree that the
12 authors of this study actually felt that
13 confirmation surgery improved patients' gender
14 dysphoria, correct?

15 A That's because they were doing it. You see, it's
16 really important to believe in the treatments that
17 you're offering people, especially if you're
18 changing their anatomy in an irreversible way and
19 making them sterile. In order to do that, you have
20 to believe that you're helping them. So you're
21 asking me do they believe they are curing their
22 gender dysphoria? Yes. But Cecilia and her
23 colleagues had the wisdom and the courage to
24 actually do a follow-up of everyone who had sex
25 reassignment surgery over a 30-year period. That

1 was unheard of. This is the first study of this
2 kind --

3 Q Doctor, I'm sorry. We have gone beyond answering
4 the question at this point. In paragraph 48 of
5 your report, you described the third outcome
6 parameter that you use, impact on -- I'm so sorry,
7 Doctor. I completely forgot. You had asked for a
8 break right now. Do you want to go ahead and take
9 that break?

10 A Yeah, that would be great. Thank you.

11 (A brief recess was taken.)

12 Q Back on the record. Okay. Doctor, beginning on
13 paragraph 48 in your report, you start talking
14 about what you describe as the third outcome
15 parameter which is impact on the mental health of
16 gender confirmation surgery. Do you see that?

17 A Yes. 48, right? Paragraph 48?

18 Q Paragraph 48, correct. And about, oh, a third of
19 the way down, that large paragraph there, you say,
20 "Recent studies recognizing the uncertainty of the
21 mental health benefits of GCS concluded that
22 genital surgery improves mental health."

23 Do you see that?

24 A Yes.

25 Q Okay. And one of the studies that you cite is a

1 study conducted by Almazan and others, is that
2 correct?

3 A Yes.

4 Q And I have pulled up on my screen what I marked as
5 Exhibit 38, which I will make a little bit larger
6 for everyone. But you recognize this as the
7 Almazan study you cite, correct?

8 A Yes.

9 Q All right. And you agree -- and I'm reading the
10 objective here -- but you agree that the authors in
11 this study sought to evaluate associations between
12 gender affirmation surgery and mental health
13 outcomes including psychological distress,
14 substance use, and suicide risk, correct?

15 A Uh-huh.

16 Q Yes?

17 A Yes. Yes.

18 Q And on -- I'm sorry. I'm looking for the number.
19 On -- I'm still on the abstract but on the first
20 page of the exhibit, it notes under results that of
21 the 27,715 respondents, 3,559 endorsed undergoing
22 one or more types of gender-affirming surgery at
23 least two years prior to submitting survey
24 responses. Do you see that?

25 A Yes.

1 Q And you agree that 3,559 is a large sample size?

2 A Yes.

3 Q And on page 615, the author's report -- and I'm
4 quoting here -- "After adjustment for
5 sociodemographic factors and exposure to other
6 types of gender-affirming care, undergoing one or
7 more types of gender-affirming surgery was
8 associated with lower past month psychological
9 distress, past year smoking, and past year suicidal
10 ideation. After Bonferroni correction, there were
11 was no statistically significant association
12 between gender-affirming surgery and past month
13 binge alcohol use or past year suicide attempts."

14 Did I read that correctly?

15 A You did.

16 Q And you agree that these are some or all of the
17 results of this study?

18 A That's -- that's the result of the study. The
19 question is whether there's any validity to the
20 study.

21 Q In paragraph 48 of your report, you criticize this
22 study as saying the latter article failed to
23 mention that over half of the 27,715 subjects rated
24 their mental health as poor/severe. Do you see
25 that?

1 A I don't see it, but that sounds like I wrote that,
2 yeah.

3 Q Okay. I will tell you it's paragraph 38A of your
4 report.

5 A Okay.

6 Q And it's --

7 A Oh, yeah. I see it.

8 Q You see it? And when you refer to the latter
9 authors there, you're referring to Almazan and his
10 or her coauthor, correct?

11 A Yes. Yeah. Keuroghlian.

12 Q I wasn't going to try to pronounce it, but I
13 commend you for doing so. And I guess my first
14 question is you understand that the authors of the
15 Almazan study were not attempting to study all
16 27,715 respondents to the survey, correct?

17 A On these parameters, yes, but they -- yes.

18 Q They were attempting to study only the 3,559
19 persons who received surgery, correct?

20 A That's right.

21 Q Okay. Do you know how many of those persons rated
22 their mental health as poor/severe in the surgery
23 responses?

24 A I don't.

25 Q Okay. I'm sorry. I'm going to flip over -- let me

1 ask it this way. But the citation you provide for
2 the statement that over half of the 27,715 subjects
3 rated their mental health as poor/severe, was to an
4 article by Miller and others in 2023, is that
5 correct?

6 A Yes.

7 Q Okay. And I have pulled up on the screen for you
8 what I have marked as Exhibit 39, and my question
9 to you is whether you recognize this as the Miller
10 study that you cited.

11 A At the moment, I don't recognize it, but I trust
12 you.

13 Q Okay. I will tell you it has the same authors and
14 same title as what you cited in your report, so I
15 would be very curious if they were not the same.

16 A Well, I trust you.

17 Q And this is a different study that analyzed the
18 same survey responses for a different purpose, is
19 that fair?

20 A Yes.

21 Q Yes?

22 A Yes.

23 Q I'm so sorry, Doctor. It might be my hearing. I'm
24 not trying to be rude. I'm having trouble hearing
25 you from time to time.

1 A I'm a mumbler.

2 Q And looking at the portion I have highlighted on
3 page 1 of this study under main outcomes and
4 measures, it describes the outcomes measured as
5 self-rated health dichotomized as poor or fair
6 versus excellent, very good, or good as well as
7 severe psychological distress, open parentheses,
8 scoring a validated threshold of greater than or
9 equal to 13 on the Kessler psychological distress
10 scale. Do you see that?

11 A I see it.

12 Q So it's my understanding from reading this study
13 that there are actually two different survey
14 responses that the authors here analyzed. One was
15 a self-report of their health, and the other was
16 whether they met qualifications for psychological
17 distress.

18 A Okay.

19 Q Do you have an understanding as to whether that's
20 correct?

21 A Again, you know, it's been a long time since I read
22 the study, and I trust you.

23 Q Okay. Well, in your report, you say that over half
24 of the 27,715 subjects in that survey rated their
25 mental health as poor/severe.

1 A Is that --

2 Q I'm wondering if in order to get that number you
3 aggregated the number of persons who reported their
4 mental health as poor or fair and added to that the
5 number of persons who, on a separate question,
6 responded, yes, I experience severe psychological
7 distress?

8 A I don't recall. Do you know that I, in fact, made
9 that error or aggregated those two? I just don't
10 recall.

11 Q Okay. You agree that assuming that those are two
12 separate questions, there is likely going to be
13 significant overlap between survey respondents who
14 rate their mental health as poor and persons who
15 experience severe psychological distress, correct?

16 A So self-rated health is a -- is it your
17 understanding that that refers to physical health
18 only? Is that what you're saying?

19 Q I don't know the question on the survey, but my
20 question to you is -- and you're the one that
21 relied on this to refer to --

22 A Let me answer the question. I presumed that health
23 was not referring to the state of their living or
24 their diabetes or their heart. I thought how
25 healthy are you, and in particular, whatever the

1 rating was it says about your -- when they gave the
2 questionnaire -- whether they measured severe
3 psychological distress. So to me they -- one is a
4 self-report subjective estimation about how I'm
5 doing in the world, and who knows about what point
6 of reference that those people had. But here is a
7 more objective answer to a series of questions
8 about psychological distress. I didn't think they
9 were talking about physical health here. I thought
10 they were talking about psychological function and
11 health.

12 Q And, Doctor, I'm not trying to mislead you. I
13 think you're probably right that they are talking
14 about self-reported mental health. I just was not
15 100 percent sure, so I did not want to steer you in
16 that direction. But assuming that they are talking
17 about there are two separate questions, one asks
18 for a self-report of your mental health and the
19 other is some measure of your psychological
20 distress, you agree that there's likely to be
21 overlap between persons who report their mental
22 health as poor and persons in severe psychological
23 distress, correct?

24 A Yes.

25 Q Okay.

1 A But, you see, these are self-report from patients
2 that the investigators don't know, have never met,
3 have no idea --

4 Q Doctor, I understand that, but you relied on this
5 study for the proposition that over half of the
6 27,715 subjects in the Almazan study rated their
7 mental health as poor/severe. And my reading of
8 the study is that poor and severe are answers to
9 two entirely different questions, so I am wondering
10 how you came up with that statement that over half
11 of the subjects rated their mental health as
12 poor/severe.

13 A Didn't I quote that from this study somewhere?

14 Q You cited the study. You did not quote the study.

15 A Oh.

16 Q And in -- I'm on the abstract, but in the results
17 portion of the study, the portion I have
18 highlighted says, "In total, 3,955 respondents
19 reported fair or poor self-rated health, and 7,392
20 met the criteria for severe psychological
21 distress."

22 Did I read that correctly?

23 A I see what you're saying. I see. You think I
24 added those two and said more than half, and you're
25 saying maybe I made a mistake because some of those

1 were the same people?

2 Q What I am saying is that you cite this study as
3 evidence that over half of the subjects rated their
4 mental health as poor/severe, and even when you add
5 those two figures, you don't get up to half of the
6 study subjects.

7 A I wonder whether I found that in the discussion
8 section.

9 Q Okay. So you think in the discussion section that
10 there might be different results than in the
11 results section?

12 A I say I wonder. I don't recall.

13 Q Okay.

14 A You need to understand that, you know, I read
15 hundreds of papers, and my memory for each one is
16 not eidetic, you know.

17 Q Is it possible that there are other portions of
18 your report where you have cited studies for facts
19 that the studies don't indicate to be true?

20 A Well, that --

21 MR. CARLISLE: Objection. Argumentative.
22 Misstates his testimony.

23 A Yeah. That would take, you know, a scholarly
24 review to determine that. I'm telling the truth as
25 I understand it. And, you know, the idea that half

1 of these people on a survey rated their mental
2 health as poor, for example, is perfectly
3 consistent with my experience with -- in this for
4 over 50 years.

5 Q Okay. In paragraph 49 of your report, you
6 described a study authored by Heylens,
7 H-e-y-l-e-n-s, and others. Do you see that?

8 A Yes.

9 Q I'm pulling up on your screen what I marked as
10 Exhibit 40, and I would just ask you if you
11 recognize this as the study that you cite.

12 A It's from 2014?

13 Q I believe this is 2013.

14 A Give me a minute. I cited it wrong. I wrote it as
15 2014. All right. Okay. I presume.

16 Q And I'm not going to hold you to the specific year,
17 but you recognize this as a study you started
18 describing in paragraph 49, correct?

19 A Uh-huh.

20 Q Yes?

21 A Yes.

22 Q Okay. And this study, as I understand it, concerns
23 persons who were admitted a symptom checklist
24 called the SCL90 at three points in time, had a
25 presentation after the administration of hormones

1 and after affirmation surgery. Is that your
2 understanding?

3 A Yes.

4 Q Okay. You understand that the SCL90 is designed to
5 measure a snapshot of a person's mental state,
6 correct?

7 A Yes.

8 Q It's designed to tell me how you -- how I'm feeling
9 today, right now, this second, correct?

10 A And -- yeah. Not this second, no.

11 Q At the time that I'm asking the questions?

12 A Okay. Yeah. And the SCL90 did not arise in the
13 context of gender dysphoria. It doesn't have any
14 questions on gender dysphoria, symptoms of gender
15 dysphoria. It originally -- it originated in
16 sexual dysfunction work in general mental health
17 work at a time when there wasn't much emphasis on
18 gender dysphoria.

19 Q Okay. In paragraph 50 of your report, Doctor, you
20 cite a study that you describe as being by Cardoso
21 and others in 2016. Do you see that?

22 A Yes.

23 Q And I will just tell you I think that the citation
24 is proper in your bibliography at the end of your
25 report, but I think you were trying to cite the

1 Cardoso Da Silva study that I pulled up as
2 Exhibit 41. Do you see the exhibit?

3 A Yeah. Are you saying I made a mistake?

4 Q I'm saying that you made a typographical error. I
5 just want to confirm that what I have on the screen
6 in front you as Exhibit 41 is the same study that
7 you cited as Cardoso, et al., 2016, in paragraph 50
8 of your report.

9 A Did it involve 47 patients?

10 Q I will direct you to the aim portion in the middle
11 of your screen there.

12 A Yeah. Okay. Yeah.

13 Q Okay. And my understanding is that this study
14 relied on a quality of life or QOL questionnaire
15 administered by the World Health Organization. Is
16 that your understanding as well?

17 A Well, yes. I think the questionnaire is known as
18 the World Health Organization Quality of Life.

19 Q Okay. Thank you. You agree that questionnaire or
20 that assessment does not suffer from the snapshot
21 issue that the SCL90 questionnaire suffers from?

22 A These are various questionnaires that ask people
23 to -- that are not known to the investigator to
24 estimate how they're doing in life lately, you
25 know. Sometimes they have -- you know, in the last

1 year, or sometimes they don't give a time
2 parameter.

3 Q Let me ask it this way then. I'm sorry. The World
4 Health Organization Quality of Life Questionnaire
5 is designed to measure how I'm doing overall in my
6 life, correct?

7 A I think so. I would have to look at the
8 specific -- you know, the instructions given to the
9 patient before the questions are asked. They give
10 the -- they give the parameters for the patient to
11 think about.

12 Q And you agree that this study shows positive
13 psychological and social outcomes associated with
14 affirmation surgery, correct?

15 A Yes.

16 Q But it shows a negative influence on physical
17 health and independence. Is that your
18 understanding?

19 A Yes.

20 Q And in the middle of the portion that I have
21 highlighted on page 992, the authors indicate that,
22 "These negative results are easily justified by the
23 recovery that all patients underwent during the
24 first year after SRS. The surgical procedure is
25 complex and involved the possibility of surgical

1 complications and other esthetic procedures."

2 Did I read that correctly?

3 A Yes.

4 Q So the author is attributing the worsening of
5 physical health and independence as resulting from
6 the surgical -- the surgical procedure itself. Is
7 that a fair statement?

8 A I guess the consequences of surgery, but they can't
9 be sure about that because people on hormones, for
10 example, have lipid abnormalities. They have
11 premature onset of various cardiac, cardiovascular
12 disease, so they -- the surgeons, you know, they
13 just look at things through the light of the
14 surgery, but so many things have went on in the
15 person's life that could result in poor health.
16 This sort of suggests that, boy, there are lots of
17 serious complications to surgery, not what the
18 surgeons call complications in the postoperative
19 time but the long-term consequences of surgery on
20 urination, sexual function, for example, fistula
21 formation, bowel movements, and urinary tract
22 infections.

23 But there are lots other things going on in a
24 person's life, and so if the surgeon thinks this is
25 all about surgery, that's a kind of limitation of

1 understanding about the complex --

2 Q Doctor, beginning in paragraph 52 of your report,
3 you start describing the fourth outcome parameter,
4 the impact on social and vocational function. Do
5 you see that?

6 A Yes, I do.

7 Q You agree that the Cardoso da Silva study found
8 that patients who receive affirmation surgery
9 experience significant improvement in their social
10 relationships?

11 A By self-report, yes.

12 Q Okay. In paragraph 52 on the second page, page 27,
13 about two-thirds of the way down, do you see a
14 sentence with "this idea"?

15 A Two-thirds of the way down?

16 Q Maybe three-quarters.

17 A "This idea requires ignoring the studies of the
18 mental health problems of" -- yeah. Okay.

19 Q Okay. The article -- and this idea, I think,
20 refers to the idea that there are no inherent
21 mental or emotional problems with being
22 transgender. Am I understanding?

23 A Yes.

24 Q Okay. And the article you cite to is a 2016
25 article by Cecilia?

1 A Yeah.

2 Q And others, is that correct?

3 A Yes.

4 Q And I have pulled up on your screen what I have
5 marked as Exhibit 42, and you recognize this as the
6 2016 article that you cite there?

7 A Yeah.

8 Q And is this article what I would consider to be a
9 literature review?

10 A Yeah.

11 Q It reviewed preexisting studies to determine what
12 it could find out, among other things, the
13 prevalence of psychiatric disorders among
14 transgender persons?

15 A Yeah. Yes.

16 Q Thank you. I actually heard you there. I was
17 looking at my notes. And on page 53 of this
18 article the other authors write, "The majority of
19 the psychiatric problems detailed in the studies
20 relate to affective disorders such as depression
21 and anxiety, major psychiatric problems, e.g.,
22 schizophrenia and bipolar disorder, were not found
23 any more frequently in trans people than in the
24 general population."

25 Have I read that correctly?

1 A You did.

2 Q You agree that anxiety and depression can be
3 symptoms of gender dysphoria itself, correct?

4 A Yes. But they're often present before the
5 diagnosis, years before the diagnosis, or even
6 recognition of gender dysphoria. And in the light
7 of this paragraph, you see, Cecilia and her
8 colleagues are comparing what -- they're leaving
9 the idea out that, oh, just anxiety and depression
10 are minor things, and schizophrenia and bipolar
11 disorder are major things. But there's lots of
12 studies showing that anxiety disorders and
13 depressive disorders that are not bipolar disorders
14 have major consequences for life.

15 Q You agree, Doctor, that anxiety and depression can
16 be caused by lifestyle factors, events that are
17 more likely to be experienced by transgender
18 persons such as victimization or interpersonal
19 problems, is that fair?

20 A Well, I know you don't want me to elaborate too
21 much. It's -- your summary is a very limited
22 summary of the complexity of that issue, so I can
23 say it's fair, but I don't really believe that
24 you're capturing the essence in this point of what
25 the issue is.

1 Q Well, let me put it this way. You agree that
2 across the board, on average, transgender persons
3 are at greater risk of victimization than
4 non-transgender persons?

5 A You mean after they come out as transgender? Is
6 that what you mean by victimization, or do you mean
7 they were -- they have a higher level of sexual
8 victimization prior to coming out?

9 Q I'm going to move on, Doctor. In paragraph 55 of
10 your report, you describe the sixth parameter,
11 all-cause mortality. Do you see that?

12 A Yes.

13 Q And you describe several concerns related to
14 all-cause mortality, and the thing you write is
15 while death from suicide after confirmation surgery
16 has received the most attention, the incidence of
17 AIDS, cardiovascular disease, and cancer is also
18 significantly elevated. Do you see that?

19 A Yes.

20 Q And in this paragraph, you cite various studies by
21 Jackson, by Erlangsen, by Cecilia, and by De Blok
22 as well as a database maintained by the United
23 States Veterans Health Administration, is that
24 correct?

25 A Correct.

1 Q It's my understanding from looking at these that
2 all of these studies and the database were
3 comparing various events following gender
4 confirmation surgery to the general population as a
5 whole, is that correct?

6 A Not quite. The VA Hospital data -- just, I mean,
7 these are massive data studies, you know, with
8 hundreds of thousands of, quote, cases. And so
9 anybody registered under the term transgender or
10 gender dysphoria, anything in transvestism, for
11 example, anything that sounded like it could be
12 gender dysphoria in today's diagnosis, they were
13 included whether or not they had surgery.

14 Q All right. And was that just the VA database you
15 were describing there?

16 A No. Actually, I would have to look at each
17 individual study to see the specific criteria. Of
18 course, the 2011 study by Cecilia and her
19 colleagues were only the people that had sex
20 reassignment surgery, but I think most of these are
21 called registry studies using, you know, massive
22 databanks, national databanks, where everyone who
23 has a diagnosis gets, you know, put into the
24 databank, the central databank. I would have to
25 look at the individual studies about which ones had

1 surgery and which ones didn't have surgery. They
2 all had to have a diagnosis. It's not necessarily
3 of surgery, I think.

4 Q But regardless of the population they were
5 studying, the control group for all of these was
6 the general population, correct?

7 A Exactly.

8 Q It's fair to say that none of them were measuring
9 persons' post gender affirmation surgery versus
10 persons who never received gender affirmation
11 surgery, correct?

12 A One of them was -- the 2011 study did that.

13 Q Okay. That's the only one?

14 A I'm actually not certain. You know, these are five
15 different studies, and I'm not certain the answer
16 to your question.

17 Q Okay. And we already looked at the 2011 Cecilia
18 study, and you agree that that was comparing
19 persons who had received affirmation surgery to the
20 general population, correct?

21 A You know, the general impression here is that
22 because of the multiple things going on in the
23 lives of trans people, whether or not they had
24 surgery, they are vulnerable to many problems
25 including overdose, you know, dying accidentally.

1 Q I'm sorry, Doctor. Was the answer to my question
2 yes? I was just asking who the control group was
3 for that study. The general population, correct?

4 A Yes, exactly right. Yes, you're exactly right.

5 Q Okay. The sentence from your report that I read to
6 you begins while death from suicide after GCS,
7 gender confirmation surgery, has received the most
8 attention -- and goes on from there -- it sounds to
9 me like you were telling me now that some of the
10 studies that you cited might not have even been
11 specific to gender confirmation surgery?

12 A Yes. I'm not sure that they're specific for that.
13 I think they're specific for entering into a
14 national database a transgender identity, a
15 transgender diagnosis, and that could be gender
16 dysphoria or gender incongruence or gender
17 dysphoria. Gender dysphoria can be gender
18 dysphoria non-specified.

19 Q The only study that you cite in this paragraph that
20 you're aware concerns specifically persons who
21 received surgery is the Cecilia study from 2011,
22 correct?

23 A At this point, that's what I am aware of, yeah.

24 Q Okay. In paragraph 69 of your report, scooting on
25 forward a bit -- let me know when you're there.

1 A I'm here. I'm there.

2 Q You describe in this paragraph a medical review
3 conducted by the United States Department of Health
4 and Human Services, correct?

5 A Yes.

6 Q It's my understanding that what you're describing
7 is known as a national coverage determination
8 applicable to Medicare coverage?

9 A Yes.

10 Q And it's my understanding that the determination in
11 2016 was essentially not to issue a national
12 determination saying that Medicare will always
13 cover gender affirmation surgery, correct?

14 A I'm not so sure it doesn't apply to Medicaid as
15 well, but it was done by the offices of Medicare,
16 yeah.

17 Q But the decision itself was to leave it up to local
18 agencies to approve coverage for confirmation
19 surgery on a case-by-case basis when it was deemed
20 to be medically necessary, is that correct?

21 A I thought it was leaving it up to individual states
22 and their policy making rather than individuals.

23 Q Okay. And I said local agencies, and they might
24 have been statewide agencies, but it was -- the
25 determination was to leave it up to someone at the

1 local level to decide whether to approve Medicare
2 coverage for affirmation surgeries on a
3 case-by-case basis when medically necessary,
4 correct?

5 A Yes, case by case.

6 MR. ROSE: I am sorry, Alex. Off the record
7 real quick.

8 (A discussion was held off the record.)

9 Q Okay. Doctor, in paragraph 59 of --

10 A 59?

11 Q 59. I'm sorry. Of your report, you begin that
12 paragraph by saying that state prison systems'
13 policies about trans inmates vary and evolve at
14 different rates. Do you see that?

15 A Wait. No. I haven't found it yet.

16 Q Sorry. It's on page 31.

17 A Okay. I see it now, yeah.

18 Q Okay. Are you aware of state prison systems that
19 provide confirmation surgery for inmates when it's
20 deemed to be medically necessary?

21 A Yes.

22 Q Which states are you aware of that will?

23 A Massachusetts, California. I have a feeling
24 Illinois, maybe, and New Jersey. That's the extent
25 of kind of the confidence in my answer.

1 Q I assume it's possible that there are other states
2 out there that will provide it that you're not
3 aware of?

4 A That's right.

5 Q And the Massachusetts policy will allow for
6 confirmation surgery when it's deemed to be
7 medically necessary?

8 A Yes.

9 Q And I assume that you played a role in drafting
10 that policy?

11 A No.

12 Q Did you approve it?

13 A I didn't have to approve it. I was informed about
14 the policy.

15 Q Okay. Okay. I will pull up on your screen what I
16 have marked as Exhibit 43. Sorry. I don't want to
17 show you my entire inbox. Let me stop the share
18 real quick. Okay. I'm sorry. It was -- I didn't
19 think any of my exhibits were large enough to cause
20 an issue. Okay. Doctor, do you see what I have
21 marked as Exhibit 43 on your screen there?

22 A Yes.

23 Q Okay. I will represent to you that this is the
24 Transgender Offender Manual that has been released
25 by the United States Department of Justice Federal

1 Bureau of Prisons. Are you familiar with this
2 document? Have you seen it before?

3 A Never.

4 Q Have you ever been made aware of the policy of the
5 Federal Bureau of Prisons regarding coverage or
6 provision of gender-confirmation surgery?

7 A This would cover all states.

8 Q This just covers persons incarcerated by the
9 federal government within the Federal Bureau Of
10 prisons.

11 A I don't think I am aware of this at all.

12 Q Okay. That makes my questions on this far shorter.
13 Are you familiar with the National Commission on
14 Correctional Healthcare, or the NCCHC?

15 A No.

16 Q You're not aware that it exists?

17 A I may have heard the term, but, you know, I
18 don't -- I'm only a consultant to Massachusetts.
19 You know, I don't -- I have not been invited to go
20 to the national meetings of corrections care and so
21 forth. And I generally am -- I'm not immersed in
22 the policy, federal or state policy or prison
23 policies. Sometimes someone -- I mean, I hear
24 about, you know, what is required now, but I don't
25 know the -- you know, I don't know this document,

1 or I'm not greatly familiar with the other document
2 you just mentioned.

3 Q I believe -- I'm sorry. Every time I scroll up, I
4 miss -- something comes up that prevents my ability
5 to click over to something else. Let me go ahead
6 and just try to see if the -- there we go. I will
7 scroll over to what I have marked as Exhibit 44,
8 which I will represent is a position statement
9 released by the NCCHC, and I will ask you if you
10 have ever seen this document before.

11 A I have not.

12 Q Okay. In your consulting work for the
13 Massachusetts Department of Correction or for other
14 correctional agencies, have you ever consulted any
15 statements or guidance issued by the NCCHC?

16 A Well, those initials aren't familiar to me. I
17 think in Massachusetts once they -- when they
18 revised their policies, they -- I have to read
19 them. I have to read them, but I don't know
20 this -- this doesn't look familiar at all to me.

21 Q Okay. That is perfectly fair. Hold on just one
22 second. Doctor, this is entirely my fault. My
23 notes reflect an incorrect citation to a portion of
24 your report, so I'm trying to find the right
25 portion to direct you to, and I apologize for the

1 delay.

2 A I graciously accept your apology.

3 Q Okay. I'm sorry. It's paragraph 71. I'm so
4 sorry. I wrote paragraph 37, page 37.

5 A I'm on page 37, paragraph 71.

6 Q Okay. Okay. The very last sentence of that
7 page -- of that -- on page 37, at least, says,
8 "What others have written about the special
9 challenges of this prison population were ignored."

10 Do you see that? I'm sorry, Doctor. Do you see
11 that in your report?

12 A Yes.

13 Q Okay. I'm sorry. And the citations you offer
14 which span pages 37 and 38 are to a piece that you
15 wrote and to a piece that Osborne and Lawrence
16 wrote, correct?

17 A Yes.

18 Q And I have pulled up on the screen Exhibit -- what
19 I have marked as Exhibit 45. Do you see that okay?

20 A "Male Prison Inmates with Gender Dysphoria. When
21 is Sex Reassignment Appropriate?" Yes.

22 Q And my question to you is, is this the Osborne and
23 Lawrence article that you cited in --

24 A Yes.

25 Q -- paragraph 71? Yes.

1 A Yes.

2 Q Okay.

3 A I interrupted you. I'm sorry.

4 Q You're perfectly fine. Doctor, the other citation
5 you offered too was a piece that you published in
6 2016, correct?

7 A Yes.

8 Q And that is to a piece titled, quote, unquote,
9 "Reflections on the legal battles over prisoners
10 with gender dysphoria"?

11 A Yes.

12 Q I'm correct that is commentary, not original
13 research, correct?

14 A Yes. It's reflections on my role in the various
15 lawsuits and then with -- yes, it's correct.

16 Q And it's my understanding that portions of your
17 expert report in this case have been taken largely
18 verbatim from this commentary piece that you wrote
19 in 2016. Is that a fair statement?

20 A I don't think so. If I'm aware -- I'm not aware
21 that I lifted verbatim from --

22 Q Okay.

23 A No. Actually, I don't think that's true at all.

24 Q Okay. You're not in trouble if you quote from
25 yourself, just for the record. Okay. Doctor, you

1 understand that this lawsuit was brought on behalf
2 of an inmate who -- whose preferred name is Autumn
3 Cordellione, correct?

4 A Would you pronounce that last name slowly? Because
5 I want to hear how that word -- that name is said.

6 Q I have always said Cordellione, and I have not been
7 corrected yet about that.

8 A Cordel --

9 Q Cordellione.

10 A Cordellione.

11 Q Okay. All right. But there's a chance that she's
12 just polite, and I'm not pronouncing it correct at
13 all.

14 A Okay. And there's a -- you know, this may be like
15 the Dhejne name. We may refer to her as Autumn
16 because it's easier.

17 Q Why don't we do that. Doctor, have you ever met
18 Autumn?

19 A Never.

20 Q Have you ever spoken with her?

21 A No.

22 Q Have you ever conducted any sort of mental health
23 evaluation on her?

24 A No.

25 Q Have you spoken with any of her medical or mental

1 health providers about her?

2 A No. The closest of meeting her is I watched a
3 videotape of her, but I never met her personally.
4 When you said that word, "met," I thought you meant
5 in person.

6 Q And that was a videotape that was taken as part of
7 her medical experience at the facility?

8 A Well, it was about a PREA.

9 Q I'm sorry. I'm sorry. That was a videotape
10 concerning her PREA report that she had, a PREA
11 complaint that she had made?

12 A Yes.

13 Q Okay. And do you know how long ago that was taken?

14 A I think it was the summer, but it was about an
15 incident years before.

16 Q Okay. Other than this video, is it fair to say
17 that the only material that you have reviewed
18 specific to Autumn are her institutional medical
19 records?

20 A Yes.

21 Q Do you agree that inmates in general may withhold
22 information from medical and mental health staff at
23 the facility?

24 A Oh, yes.

25 Q And I think you even note in your report that male

1 inmates are generally unable to trust their
2 assigned mental health professionals?

3 A Yes.

4 Q And I assume that was referring to male transgender
5 inmates or transgender women?

6 A Yes.

7 Q And my assumption is that that's even more likely
8 when it comes to discussing gender-related issues
9 or gender dysphoria?

10 A No. It's related to eroticism, sexual behavior,
11 past life experiences, adversities experienced,
12 sexual behaviors in -- before prison and outside of
13 prison. These generally require a great deal of
14 trust, and there are many reasons why inmates don't
15 want to discuss these things.

16 Q Is it your understanding that transgender women in
17 particular might be concerned about abuse or
18 harassment by staff or other inmates if their
19 gender identity becomes known?

20 A Yes, especially we could expand the word
21 harassment, you know.

22 Q Sure. And do you agree that inmates will often
23 withhold from staff information pertaining to
24 suicidal ideation or self-harming behavior?

25 A It depends on the -- on the inmate.

1 Q Well, is it your understanding that inmates will
2 sometimes withhold information in order to avoid
3 placement in a suicide cell or a padded cell?

4 A Well, if they had experience in the past with that
5 kind of response to having a suicide watch, they
6 may be hesitant to repeat it if they experience
7 that as adverse, but, you know, when we talk about
8 inmates, it's sort of like talking about Catholics
9 or men or, you know -- you and I both recognize
10 there's considerable individual variation and that
11 label we apply to a demographic group, so it's hard
12 for me to say yes or no to such questions.

13 Q Okay. Doctor, are you familiar with the Code of
14 Ethics published by the American Psychiatric
15 Association?

16 A Various iterations, yes.

17 Q And do you follow this ethical code in your
18 practice?

19 A I hope so.

20 Q Okay. And you're still a member of the APA,
21 correct?

22 A Member of the what?

23 Q Of the American Psychiatric Association?

24 A Yes.

25 Q I assume you have been a member since the '70s?

1 A Yes. I'm what's called a distinguished fellow of
2 the American Psychiatric Association.

3 Q I'm pulling up for you what I have marked
4 Exhibit 46. Do you see that?

5 A Yes.

6 Q And you recognize this as the ethical codes
7 published by the APA?

8 A Yes.

9 Q Are you familiar with what was known as the
10 Goldwater rule?

11 A The Gold -- I'm sorry. The Goldwater rule?

12 Q What is colloquially known as the Goldwater rule?

13 A Yes.

14 Q And I'm going to scroll down to page 9 of the
15 ethical code where I highlighted a portion that
16 says, "It is unethical for a psychiatrist to offer
17 a professional opinion unless he or she has
18 conducted an examination and has been granted
19 proper authorization for such statement."

20 Did I read that correctly?

21 A Yes.

22 Q And, again, you have never examined Autumn,
23 correct?

24 A I examined medical records, and the examination of
25 medical records, I think, is very common in

1 consultative work in psychiatry. You know, the
2 Goldwater rule had to do with Barry Goldwater
3 and -- presidential candidate -- and recently the
4 Goldwater rule since the era of Mr. Trump has been
5 seriously questioned and challenged, actually, but
6 in -- forget politics for a minute because that's
7 where the Goldwater rule came from. There are
8 countless psychiatric consultations that are done
9 primarily on medical records, and I supervise
10 people and help them with handling their cases.
11 And I have never seen the patient itself, and the
12 whole psychiatric education process involves a
13 supervisor, more experienced person, never meeting
14 the patient and giving advice on the treatment,
15 appropriateness for treatment 1 versus treatment 2.
16 So, you know, we have to understand the sentence in
17 a larger context.

18 Q Okay. Doctor, I know this is mentioned on your CV,
19 but do you recall serving as an expert witness in a
20 California case called Norsworthy versus Beard?

21 A Norsworthy, yes.

22 Q And this was a case where Ms. Norsworthy sued the
23 prison alleging that it violated her rights by
24 refusing to provide gender confirmation surgery?

25 A Yes.

1 Q And you submitted an expert declaration in that
2 case?

3 A Yes.

4 Q I'll pull up what's marked as Exhibit 47, and I
5 will just represent to you that this is a copy of
6 the district court's decision in that case on the
7 plaintiff's request for a preliminary injunction.
8 My first question to you is it might not have been
9 in this form, but have you ever seen a copy of the
10 district court's decision on the plaintiff's motion
11 for preliminary injunction in that case?

12 A No. But I heard about some aspect of it.

13 Q I'm going to scroll down to page 12 where the
14 district court writes, referring to you, he states,
15 quote, I know of only one inmate in the U.S. who
16 has had SRS while in custody. This California
17 inmate's mental health dramatically deteriorated,
18 closed quote. Defendants have conceded, however,
19 that the incident Levine describes could not have
20 occurred because no vaginoplasties have ever been
21 performed on an inmate incarcerated in California.

22 Do you see where the district court writes
23 that?

24 A Yes.

25 Q Are you aware of the concession in that case made

1 by the California correctional department
2 indicating that they had never performed
3 vaginoplasties on an inmate in their custody?

4 A If you're going to cut me short, you won't get the
5 facts in this case.

6 Q I'm not asking for the facts. I'm asking if you're
7 aware that the California Department of Correction
8 conceded they had never performed a vaginoplasty on
9 an inmate. Are you aware of that?

10 A That's because it was performed in Texas.

11 Q Okay.

12 A And the patient was transferred to California.

13 Q Okay. Are you aware that the judge in that case
14 later referenced to you as relying on a, quote,
15 unquote, fabricated anecdote?

16 A And you need to understand that the judge was
17 wrong, that I made reference to a case that I
18 actually have in written possession at my home of
19 a -- I gave a six-hour workshop to California DOC
20 mental health professionals, the last hour of which
21 they presented a case, and they gave me a written
22 report of this case. That's what I was referring
23 to. The judge never talked to me. He made his
24 conclusions imputing my integrity saying I
25 fabricated it. He's wrong, and usually people who

1 are deposing me bring this up. And this has
2 been -- I mean, if you need me to, I can provide
3 quite extensive documentation that the judge was in
4 error about this, and he's just wrong about this.
5 When he said I fabricated it, he was wrong. He
6 never questioned me. He just concluded this. He
7 didn't see me in court because I was never in
8 court.

9 Q Okay.

10 A So, you know, this continues to be, oh, that Levine
11 has no integrity kind of implication. He's a
12 fabricator. He's a liar. I'm not. He's just
13 wrong.

14 Q Doctor, do you recall serving as an expert in a
15 Connecticut case called Clark versus Quiros?

16 A Uh-huh.

17 Q Yes?

18 A Yes.

19 Q And this is the one that we discussed at the outset
20 that was not on your CV, correct?

21 A Yes.

22 Q And this case also concerned whether a prison
23 system violated a transgender inmate's rights by
24 not providing confirmation surgery, is that
25 correct?

1 A The actual legal issue has not been foremost in my
2 mind. It's a legal concern. I was asked to do a
3 psychiatric evaluation of this prisoner. I gave a
4 psychiatric evaluation. I gave a set of --

5 Q Doctor, if you're not aware what the legal claims
6 were in the case, you can just tell me. That's a
7 perfectly fair answer.

8 A In a profound sense, I'm not aware.

9 Q But you recall that your deposition was taken in
10 that case?

11 A Yes.

12 Q And you also submitted an expert declaration?

13 A Yes.

14 Q Do you recall that in that case you outlined a
15 pathway to further consideration of the possibility
16 of some genital surgery in the future?

17 A That was my memory, yes. That was exactly my
18 memory because in one of the reports that -- one of
19 the versions of the expert opinion reports --
20 that's what I said. I said, here is a pathway. I
21 made recommendations for the DOC about how to deal
22 with this prisoner and how to reassess the prisoner
23 for sex reassignment surgery in the future after
24 these situations were removed. And during --

25 Q I'm sorry, Doctor. You answered the question. The

1 pathway that you outlined for Ms. Clark involved
2 her meeting regularly with two different types of
3 therapists, one of them specific to her gender
4 dysphoria?

5 A I think -- I think the answer to that question is
6 yes.

7 Q And I think you said she should meet with one of
8 these therapists at least once every two to three
9 weeks?

10 A I think there was a recommendation that she would
11 have a regular, reasonably frequent for a prison
12 system to discuss her life, her concerns, her
13 motivations, and her general mental health. And
14 then I think the second one was somebody to
15 evaluate the persistence of and the intensity and
16 the criteria for gender dysphoria.

17 Q And I assume that the second person would need to
18 be someone who was adequately trained and
19 experienced in gender-related issues?

20 A Somebody who is knowledgeable about this issue,
21 yes.

22 Q Okay. Do you have an understanding as to how
23 frequently Autumn is being seen by her mental
24 health professionals?

25 A I'm sorry. Repeat that, please.

1 Q Do you have an understanding how frequently Autumn
2 is being seen by her mental health professionals?

3 A Oh, Autumn. We're off of Clark now, right?

4 Q Yes. I'm sorry.

5 A I'm sorry. I was still -- I think she's offered
6 regular treatment. Of course, over the years she's
7 had numerous treatments, numerous -- she's been in
8 numerous institutions and I think has always had
9 psychotherapeutic support.

10 Q And when you say she's offered regular treatment,
11 about how frequently do you believe that she's seen
12 by a mental health professional?

13 A I would think at least once a month.

14 Q And do you have an understanding of the training or
15 experience in gender-related issues of her mental
16 health staff at the facility?

17 A Well, we're talking about a large number of people,
18 and so I certainly couldn't have an understanding
19 of their -- of their understanding and their
20 education or their training in gender dysphoria.
21 This whole issue of training in gender dysphoria is
22 a profoundly controversial area, and I just will
23 leave it at that.

24 Q Back to the Clark case, do you recall testifying in
25 your deposition that you are unable to make the